



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1258]

Certain Smart Thermostat Systems, Smart HVAC Systems, Smart HVAC Control Systems, And Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 26, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of EcoFactor, Inc. of Palo Alto, California. A supplement was filed on March 18, 2021. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain smart thermostat systems, smart HVAC systems, smart HVAC control systems, and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,423,322 (“the ’322 patent”); U.S. Patent No. 8,019,567 (“the ’567 patent”); U.S. Patent No. 10,612,983 (“the ’983 patent”); U.S. Patent No. 8,596,550 (“the ’550 patent”) and U.S. Patent No. 8,886,488 (“the ’488 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of Docket Services, U.S. International Trade Commission, telephone (202) 205-1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 30, 2021, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, 5, and 7 of the '322 patent; claims 1, 2, 5, 7, 15, 16, 19, and 20 of the '567 patent; claims 1-3, and 16-18 of the '983 patent; claims 1, 5-7, 9, 13-15, and 17 of the '550 patent and claims 1, 2, 5, 7-10, and 13-15 of the '488 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "smart thermostat systems, smart HVAC systems, smart HVAC control systems, and components thereof";

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

EcoFactor, Inc.

441 California Avenue, Number 2

Palo Alto, CA 94301

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

ecobee Ltd.

25 Dockside Dr., Suite 600,

Toronto, ON M5A 0B5,

Canada

ecobee, Inc.

25 Dockside Dr., Suite 600,

Toronto, ON M5A 0B5,

Canada

Google LLC

1600 Amphitheatre Parkway

Mountain View, California 94043

Carrier Global Corporation

13995 Pasteur Boulevard

Palm Beach Gardens, Florida 33418

Emerson Electric Co.

8000 W. Florissant Ave.

P.O. Box 4100

St. Louis, Missouri 63136

Honeywell International Inc.

300 South Tryon Street

Charlotte, NC 28202

Resideo Technologies, Inc.

901 E 6th Street

Austin, Texas 78702

Johnson Controls International, PLC

One Albert Quay

Cork, Ireland, T12 X8N6

Siemens Industry, Inc.

1000 Deerfield Pkwy

Buffalo Grove, IL 60089

Siemens AG

Werner-von-Siemens-Str. 1

80333 Munich

Germany

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 30, 2021.

Lisa Barton,
Secretary to the Commission.